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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,932	03/18/2004	William R. Harding	30610	5163
7590 12/27/2004				
Michael W. York 5508 Griffith Road Gaithersburg, MD 20882				
EXAMINER BURCH, MELODY M				
ART UNIT 3683 PAPER NUMBER				

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,932

Applicant(s)

HARDING, WILLIAM R.

Examiner

Melody M. Burch

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the phrase "When the brake" should be changed to --when the brake-- in line 8 of pg. 11, in line 3 of pg. 12 the phrase "have not" should be changed to --has not--, in line 5 of pg. 13 it appears that the phrase "and clockwise to increase" should be changed to --and counter clockwise to increase--.

Appropriate correction is required.

Claim Objections

2. Claims 2-11 are objected to because of the following informalities: the phrase "at least one wheel" in line 2 of claim 2 should be changed to --at least one of the wheels-- to refer back to the previously claimed wheels (a similar issue exists in claims 3 and 5), in the last line of claim 11 the phrase "includes brake" should be changed to --includes a brake--. Appropriate correction is required. The remaining claims are objected to due to their dependency from claim 2.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 9. The phrase "the axle" in line 1 lacks proper antecedent basis.

Re: claim 9. The phrase "with wheels" in line 2 is indefinite. It is unclear to the Examiner whether the wheels in claim 9 are intended to be the same or different from those earlier recited.

Re: claim 11. The phrase "the means for exerting a braking force" in lines 1-2 lacks proper antecedent basis in the claim.

Re: claim 11. phrase "the axle" in line 2 lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4292765 to Brawley.

Re: claims 1 and 2. Brawley shows in figure 3 a braking system for a surface abrading machine for abrading a surface with an abrading element or wheel 15 having a frame shown in figure 3 and wheels 22,23 comprising braking means 28 operatively connected to the frame for applying a braking force to counteract force caused by contact of the abrading element with the surface being abraded by the abrading element.

Re: claim 3. Brawley shows in figure 3 the system further comprising brake engaging means 53,54 for causing the braking means to engage at least one wheel of the surface abrading machine as disclosed in col. 9 lines 5-20.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brawley in view of US Patent 1860236 to Davis.

Re: claim 4. Brawley describes the invention substantially as set forth above, but does not include the limitation of the brake engaging means being manually operable.

Davis teaches on pg. 2 lines 78-80 the use of pressure cylinders being manually operable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake engaging means or pressure cylinders of Brawley to have been manually operable, as taught by Davis, in order to provide a means of allowing wear adjustment to be controlled by the user of the abrading machine.

Re: claim 5. Brawley, as modified, teach in figure 3 of Brawley the use of the brading means including rotating means or wheel 28.

Re: claim 6. Brawley, as modified, teach in figure 3 of Brawley the use of the braking means having an axle member shown extending from either side of element 28 in the area of the lead line of number 31 connected to the rotating means.

Allowable Subject Matter

9. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. Claims 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Brawley fails to show or suggest the limitation of the braking means including means for exerting a braking force through the axle member with the means being the alternating discs.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 3142942, 2704424, 5954566, 5152104, 3590537, and 2616226 show similar abrading machines having braking means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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December 22, 2004

Melody M. Burch
12/22/04